in writing of any person, if the complaint together with evidence, documentary or otherwise, presented in connection with the complaint makes out a prima facie case, request commission staff or any other duly authorized representative or designee to investigate the actions of any real estate broker, real estate salesperson, or other person who assumes to act in either capacity within this state, and may suspend or revoke a license issued under this chapter at any time if the licensee has by false or fraudulent representation obtained a license, or if the licensee or other person assuming to act in the capacity of a real estate broker or real estate salesperson, except for those actions exempt pursuant to section 543B.7, is found to be guilty of any of the following:

Sec. 2. Section 543B.34, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If an investigation pursuant to this section reveals that an unlicensed person has assumed to act in the capacity of a real estate broker or real estate salesperson, the commission may issue a cease and desist order, and may impose a civil penalty of up to the greater of ten thousand dollars or ten percent of the real estate sale price.

Sec. 3. NEW SECTION. 543B.49 INJUNCTIVE RELIEF.

1. In addition to the penalty and complaint provisions of sections 543B.43, 543B.44, and 543B.48, an injunction may be granted through an action in district court to prohibit a person from engaging in an activity which violates the provisions of section 543B.1. The action for injunctive relief may be brought by an affected person. For the purposes of this section, "affected person" means any person directly impacted by the actions of a person suspected of violating the provisions of section 543B.1, including but not limited to the commission created in section 543B.8, a person who has utilized the services of a person suspected of violating the provisions of section 543B.1, or a private association composed primarily of members practicing a profession for which licensure is required pursuant to this chapter.

2. If successful in obtaining injunctive relief, the affected person shall be entitled to actual costs and attorney fees, unless the person suspected of violating a provision of section 543B.1 prevails in any application for permanent injunctive relief. For the purposes of this section, "actual costs" means those costs other than attorney fees which were actually incurred in connection with the action, including but not limited to court and witness fees, investigative expenses, travel expenses, legal research expenses, and other related fees and expenses.

Approved March 18, 2004

CHAPTER 1006

PUBLIC UTILITIES — PROCEEDINGS FOR TEMPORARY OR ADJUSTED RATES, CHARGES, SCHEDULES, OR REGULATIONS

S.F. 2240

AN ACT relating to temporary rate authority and rules of the Iowa utilities board regarding rate regulation proceedings.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 476.6, subsection 10, unnumbered paragraph 2, Code Supplement 2003, is amended to read as follows:

A public utility may choose to place in effect temporary rates, charges, schedules, or regula-

tions without board review ten days after the filing under this section. If the utility chooses to place such rates, charges, schedules, or regulations in effect without board review, the utility shall file with the board a bond or other corporate undertaking approved by the board conditioned upon the refund in a manner prescribed by the board of amounts collected in excess of the amounts which would have been collected under rates, charges, schedules, or regulations finally approved by the board. At the conclusion of the proceeding if the board determines that the temporary rates, charges, schedules, or regulations placed in effect under this paragraph were not based on previously established regulatory principles, the board shall consider ordering refunds based upon the overpayments made by each individual customer class, rate zone, or customer group.

If the board finds that an extension of the ten-month period is necessary to permit the accumulation of necessary data with respect to the operation of a newly constructed electric generating facility that has a capacity of one hundred megawatts or more of electricity and that is proposed to be included in the rate base for the first time, the board may extend the ten-month period up to a maximum extension of six months, but only with respect to that portion of the suspended rates, charges, schedules, or regulations that are necessarily connected with the inclusion of the generating facility in the rate base. If a utility is proposing to include in its rate base for the first time a newly constructed electric generating facility that has a capacity of one hundred megawatts or more of electricity, the filing date of new or changed rates, charges, schedules, or regulations shall, for purposes of computing the ~~ninety-day and ten-month~~ time limitations stated above, be the date as determined by the board that the new plant went into service, but only with respect to that portion of the suspended rates, charges, schedules, or regulations that are necessarily connected with the inclusion of the generating facility in the rate base.

Sec. 2. Section 476.33, subsection 4, Code Supplement 2003, is amended to read as follows:

4. The board shall adopt rules that require the board, in rate regulatory proceedings under sections 476.3 and 476.6, to consider the use of the most current test period possible in determining reasonable and just rates, subject only to the availability of existing and verifiable data respecting costs and revenues, and in addition to consider verifiable data that exists ~~as of the date of commencement of the proceedings~~ within nine months after the conclusion of the test year, respecting known and measurable changes in costs not associated with a different level of revenue, and known and measurable revenues not associated with a different level of costs, that are to occur at any time within twelve months after the date of commencement of the proceedings. Parties proposing adjustments that are not verifiable at the commencement of the proceedings shall include projected data related to the adjustments in their initial substantive filing with the board. For purposes of this subsection, a proceeding commences under section 476.6 upon the filing date of new or changed rates, charges, schedules or regulations. This subsection does not limit the authority of the board to consider other evidence in proceedings under sections 476.3 and 476.6.

Approved March 18, 2004

CHAPTER 1007

MOTOR VEHICLE OWNERSHIP TRANSFERS —
DAMAGE DISCLOSURE REQUIREMENTS

S.F. 2253

AN ACT relating to disclosure requirements for the transfer of ownership of a motor vehicle and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 321.69, subsections 1, 2, 3, 4, 7, 8, and 9, Code Supplement 2003, are amended to read as follows:

1. A certificate of title shall not be issued for a motor vehicle unless a damage disclosure statement has been made by the transferor of the vehicle and is furnished with the application for certificate of title. A damage disclosure statement ~~must~~ shall be provided by the transferor to the transferee in a transfer of ownership of a motor vehicle. The new certificate of title and registration receipt shall state on the face ~~of the title the total cumulative dollar amount of damage reported by owners prior to the owner listed on the front of the title~~ whether a prior owner had disclosed that the vehicle was damaged to the extent that it was a wrecked or salvage vehicle as defined in section 321.52, subsection 4, paragraph "d".

2. The damage disclosure statement required by this section shall, at a minimum, state ~~the total retail dollar amount of all damage to the vehicle during the period of the transferor's ownership of the vehicle and~~ whether the transferor knows if the vehicle was titled as a salvage, rebuilt, or flood vehicle in this or any other state prior to the transferor's ownership of the vehicle and, if not, whether the transferor knows if the vehicle was damaged to the extent that it was a wrecked or salvage vehicle as defined in section 321.52, subsection 4, paragraph "d", during or prior to the transferor's ownership of the vehicle. ~~For the purposes of this section, "damage" refers to damage to the vehicle caused by fire, vandalism, collision, weather, falling objects, submersion in water, or flood, where the cost of repair is six thousand dollars or more per incident, but does not include normal wear and tear, glass damage, mechanical repairs or electrical repairs that have not been caused by fire, vandalism, collision, weather, falling objects, submersion in water, or flood. "Damage" does not include the cost of repairing, replacing, or reinstalling tires, lights, batteries, windshields, windows, a sound system, or an inflatable restraint system. A determination of the amount of damage to a vehicle shall be based on estimates of the retail cost of repairing the vehicle, including labor, parts, and other materials, if the vehicle has not been repaired or on the actual retail cost of repair, including labor, parts, and other materials, if the vehicle has been repaired. Only individual incidents in which the retail cost of repairs is six thousand dollars or more are required to be disclosed by this section. If the vehicle has incurred damage of six thousand dollars or more per incident in more than one incident, the damage amounts must be combined and disclosed as the total of all separate incidents.~~

3. The damage disclosure statement shall be provided by the transferor to the transferee at or before the time of sale. ~~However, if the transferor has a salvage certificate of title for the vehicle, the transferor is not required to disclose under this section the total retail cost of repairs to the vehicle during the period of the transferor's ownership of the vehicle.~~ If the transferor is not a resident of this state or if the transferee acquired the vehicle by operation of law as provided in section 321.47, the transferee shall not be required to submit a damage disclosure statement from the transferor with the transferee's application for title unless the state of the transferor's residence requires a damage disclosure statement. However, the transferee shall submit a damage disclosure statement with the transferee's application for title indicating whether a salvage, ~~or~~ rebuilt, or flood title had ever existed for the vehicle and, if not, whether the vehicle ~~had incurred prior damage of six thousand dollars or more per incident,~~ was damaged to the extent that it was a wrecked or salvage vehicle as defined in section 321.52,